1 REMARKS

2	Reconsideration of this application as amended is requested.
3	In the Office Action of July 21, 2004, the Examiner rejected claims 1 and 2, allowed
. 4	claims 4-7, and indicated that "[c]laim 3 would be allowable if rewritten to overcome the
5	rejection(s) under 35 U.S.C. 112, second paragraph, set forth in [the] Office Action and to
6	include all of the limitations of the base claim and any intervening claims."
7	Claims 1 and 2 have been cancelled. Claim 3 has been amended to now be in
8	independent form, and now includes all limitations of base claim 1 from which it originally
9	depended. No claims have been added, and the only amendment to the claims is to cancel all
10	rejected claims and place formerly-dependent claim 3 into independent form. The Office
. 11	Action did not state any rejection under 35 U.S.C. § 112, second paragraph (or any other
12	paragraph of 35 U.S.C. § 112), for claim 3 or for any other claim in this case, and Applicant
13	is unaware of any rejection of any claim under 35 U.S.C. § 112, second paragraph, so
14	Applicant respectfully believes that the Examiner may be mistaken that claim 3 (or any other
15	claim) was or should have been rejected in this Office Action under 35 U.S.C. § 112, second
16	paragraph. If there still should happen to be some informality with claim 3 that is of concern
17	to the Examiner under 35 U.S.C. § 112, second paragraph, then Applicant's undersigned
18	attorney respectfully requests a telephone call from the Examiner so that the matter may be
19	discussed and resolved by Examiner's Amendment.
20	In a telephone conference initiated by the Examiner on July 19, 2004, the Examiner
21	stated his position, repeated in this Office Action, that the Application contained claims
22	directed to the following patentably-distinct species of the claimed invention:
23	Group I: The embodiment of Figs. 1-10B;
24	Group II: The embodiment of Figs. 11-16; and
25	Group III: The embodiment of Figs. 17-20.
26	A provisional election was made without traverse to prosecute Group III, the

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embodiment shown in Figures 11-16 and claimed in claims 1-7, and that provisional election 1 2 without traverse is hereby confirmed. 3 However, as noted to the Examiner in that telephone conference, all claims are 4 generic to all three embodiments. Because all claims now of record are in condition for 5 allowance, and because all claims of record are generic to all three embodiments, Applicant . 6 is now entitled to consideration of the other two previously-unelected embodiments of 7 Groups I and II. 8 The Examiner's Office Action did not provide a Notice from the Official 9 Draftsperson (Form PTO-948) indicating whether the 20 sheets of substitute formal drawings 10 that were filed on February 6, 2004, via Certificate of Mailing together with the Response to 11 the Notice to File Missing Parts, were acceptable as formal drawings. Provided herewith as 12 Exhibit A is an enlarged photocopy of the itemized return receipt postcard for that 13 submission with the date stamp of the U.S.P.T.O. Mail Room thereon, providing prima facie 14 proof that those 20 sheets of substitute formal drawings were received by the Mail Room of 15 the U.S.P.T.O. Applicant respectfully believes that those 20 sheets of substitute formal 16 drawings are in proper form for acceptance as formal drawings. However, if the Official 17 Draftsperson should happen to have an objection to one or more of those 20 sheets of 18 substitute formal drawings, or if some or all of those 20 sheets of substitute formal drawings 19 have become lost or misplaced subsequent to their receipt by the Mail Room of the 20 U.S.P.T.O., then Applicant respectfully requests that the filing of any new formal drawing 21 sheets be delayed until receipt of a Notice of Allowability pursuant to 37 C.F.R. § 1.85(c), 22 and that the drawings as filed be used during examination of this application until such time 23 as the Examiner may request another set of substitute formal drawings. If another set of 24 substitute formal drawings is believed necessary, Applicant respectfully requests early 25 notification of same so that their preparation does not delay issuance of the Letters Patent or,

in the alternative, that a PTO-948 be sent with the next Office Action indicating the

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1 acceptability of the 20 sheets of substitute formal drawings filed with the Response to the 2 Notice to File Missing Parts. 3 In conclusion, it is respectfully submitted that the present application and all of its 4 claims are now in condition for allowance for the reasons previously discussed. All the 5 references cited by the Examiner have been reviewed and considered but are not felt to come . 6 within the coverage of the claims now in this case, nor are they felt to disclose or suggest 7 Applicant's invention as specifically defined by applicant's claims. If the Examiner is of the 8 opinion that a telephone conference relative to this case would advance the prosecution, the 9 Examiner is respectfully requested to call the undersigned at the indicated phone number. 10 No fees should be required for the filing of this Amendment. However, if any fees 11 are required for the filing of this amendment or the papers filed concurrently herewith, please 12 charge such additional fees or credit any overpayment to Deposit Account 23-0125. 13 Formal favorable action and issuance of a timely Notice of Allowance is respectfully 14 requested. 15 Respectfully submitted, 16 PneuTools, Incorporated 17 Assignee Date: 8 12 2004 18 19 Russell H. Walker 20 U.S.P.T.O. Registration No. 35,401 21 Attorney for Assignee 22 23 Walker, McKenzie & Walker, P.C. 24 6363 Poplar Ave., Suite 434 25 Memphis, Tennessee 38119-4896 26 Tel. No. (901) 685-7428 27 Attachment Fax No. (901) 682-6488



Mail Stop Missing Parts Commissioner for Patents P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir: Kindly acknowledge receipt of the enclosed Response (2 pages); copy of Notice to File Missing Parts (2 pages); Declaration (1 page) with ADS (3 pages); Power of Attorney (1 page); Information Disclosure Statement by Applicant (1 page); Statement under 37 C.F.R. 3.73(b) (1 page) with copy of Assignment (3 pages); 20 sheets of formal drawings; check for \$505.00; and Fee Transmittal Form by affixing your date stamp hereon and returning this card to me.

Applicant: Frederick W. Lamb

· Assignee: PneuTools, Incorporated

Appl. No.: 10/635,861 Filed: August 5, 2003

For: Cap Feeding Apparatus For A Fastener Gun

Confirmation No.: 8549

Date: 2/6/04

Examiner: Art Unit: 3679 Docket No.: A2,062

File No.: A2,062

Yours very truly.

Russell H. Walker